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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,823	03/27/2001	Henry Kopf III	2780-183	9987

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
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EXAMINER

SAVAGE, MATTHEW O

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 03/26/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant No.

09/818,823

Applicant(s)

KOPF, HENRY

Examiner

Matthew O Savage

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10-12, 16, and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-13, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kopf '930 in view of Demmer et al and/or Karbachsch et al.

With respect to claim 1, Kopf discloses all of the details of claim 1 with the exception of at least one thin gasket layer bonded to a surface of the filtration cassette, wherein the thin gasket layer comprises an elastic material for forming a fluid tight seal between the filtration cassette and adjacent structure engaged therewith. Both Demmer et al (see FIG. 3, element 3) and Karbachsch et al (see FIG.2, element 90) disclose at least one thin gasket layer bonded to a surface of the filtration cassette, the thin gasket layer comprises an elastic material for forming a fluid tight seal between the filtration cassette and adjacent structure engaged therewith. It would have been obvious to have modified the cassette of Kopf so as to have included the gasket layer as suggested by Demmer et al and Karbachsch et al in order to provide fluid tight seal between the cassette and adjacent structure. Demmer et al and Karbachsch et al disclose gasket layers including an elastomeric material but fail to specify the specific durometer ranges, however, such a modification would have been obvious in order to optimize the strength of the gasket for a particular application. Demmer et al and Karbachsch et al fail to

specify the recited thickness values, however, such a modification would have been obvious in order to provide a proper seal for a given seal surface condition of the adjacent structure.

Concerning claim 3, both Demmer et al and Karbachsch et al disclose gasket layers including an elastomeric material but fail to specify the specific durometer ranges, however, such a modification would have been obvious in order to optimize the strength of the gasket for a particular application.

Regarding claims 4-5, Demmer et al and Karbachsch et al fail to specify the recited thickness values, however, such a modification would have been obvious in order to provide a proper seal for a given seal surface condition of the adjacent structure.

Regarding claims 6-7, Demmer et al and Karbachsch et al fail to specify the recited temperature resistance ranges, however, such a modification would have been obvious in order to optimize the cassette for a particular application.

As to claim 8, Demmer et al and Karbachsch et al both disclose the gasket layer as encapsulating the cassette.

Concerning claims 10 and 11, Karbachsch et al disclose silicone (see line 13 of col. 6).

Regarding claims 12 and 13, Karbachsch et al disclose molding (see lines 8-18 of col. 8).

As to claim 16, Kopf discloses the recited ports.

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With respect to claim 19, Kopf discloses all of the details of claim 1 with the exception of at least one thin gasket layer bonded to a surface of the filtration cassette, wherein the thin gasket layer comprises an elastic material for forming a fluid tight seal between the filtration cassette and adjacent structure engaged therewith. Both Demmer et al (see FIG. 3, element 3) and Karbachsch et al (see FIG.2, element 90) disclose at least one thin gasket layer bonded to a surface of the filtration cassette, the thin gasket layer comprises an elastic material for forming a fluid tight seal between the filtration cassette and adjacent structure engaged therewith, the thin gasket layer fully encapsulating the filtration cassette. It would have been obvious to have modified the cassette of Kopf so as to have included the gasket layer as suggested by Demmer et al and Karbachsch et al in order to provide fluid tight seal between the cassette and adjacent structure.

Demmer et al and Karbachsch et al disclose gasket layers including an elastomeric material but fail to specify the specific durometer ranges, however, such a modification would have been obvious in order to optimize the strength of the gasket for a particular application. Demmer et al and Karbachsch et al fail to specify the recited thickness values, however, such a modification would have been obvious in order to provide a proper seal for a given seal surface condition of the adjacent structure.

Applicant's arguments filed 1-9-03 have been fully considered but they are not persuasive.

Applicant's arguments that Demmer and Karbachsch et al fail to disclose the recited durometer, thickness, and temperature resistance values of the gasket are

noted, however, it is held that such modifications would have been obvious in order to optimize the strength and sealing functions of the gasket for a particular application.

Applicant argues that the spacers required by Karbachsch et al would obviate the need for the claimed durometer and thickness values, however, it is held that such features are not capable replacing the spacers since any excessive compression force would be applied directed to the membrane via the claimed gasket material.

Applicant argues that the rationale "to optimize the strength of the gasket" would result in durometer values that would exceed applicant's claimed range, however, such a conclusion is not agreed in this case since the term "optimization" merely implies selection of a gasket having the required strength for a particular application.

Applicant argues that the Demmer and Karbachsch et al fail to specify the gasket as fully encapsulating the cassette as recited in instant claims 8 and 19, however, it held that the references disclose "fully encapsulate" to the same extent as that of the instant invention in that all portions of the cassette are covered with gasket material with the exception any required flow openings.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 6:00am-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. Savage
Matthew O Savage
Primary Examiner
Art Unit 1723

mos
March 24, 2003